

REVENUE DEPARTMENT[701]

Notice of Intended Action

Proposing rule making related to delivery sales of alternative nicotine products or vapor products and providing an opportunity for public comment

The Revenue Department hereby proposes to amend Chapter 82, “Cigarette Tax,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 453A.47C.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 453A.47A as amended by 2017 Iowa Acts, Senate File 516, and sections 453A.47B and 453A.47C as enacted by 2017 Iowa Acts, Senate File 516.

Purpose and Summary

This proposed rule seeks to implement division VII of 2017 Iowa Acts, Senate File 516. The legislation imposed sales and use tax on all delivery sales of alternative nicotine products or vapor products within Iowa and required sellers of those products into the state to obtain a permit from the Department.

Division VII of Senate File 516 provided detailed definitions and established requirements relevant to this rule. The bond required to obtain a delivery sale permit is comparable to the bond requirements for other permits imposed by rule 701—82.3(453A).

Fiscal Impact

This rule making has no fiscal impact beyond the legislation it implements. The Department estimated that division VII of Senate File 516 would generate an additional \$0.9 million for FY 2017, \$1.1 million for FY 2018, \$1.4 million in FY 2019, \$1.7 million in FY 2020, and \$2.1 million in FY 2021.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to rule 701—7.28(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on January 22, 2019. Comments should be directed to:

Tim Reilly
Department of Revenue
Hoover State Office Building
P.O. Box 10457
Des Moines, Iowa 50306
Phone: 515.725.2294
Email: tim.reilly@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **701—Chapter 82**, title, as follows:
**CIGARETTE TAX AND REGULATION OF DELIVERY SALES OF ALTERNATIVE NICOTINE
PRODUCTS OR VAPOR PRODUCTS**

ITEM 2. Adopt the following **new** rule 701—82.12(453A):

701—82.12(453A) Delivery sales of alternative nicotine products or vapor products. Pursuant to Iowa Code section 453A.47C, Iowa sales and use taxes are imposed on all delivery sales of alternative nicotine products or vapor products within Iowa in accordance with Iowa Code chapter 423.

82.12(1) Delivery sale permit. Every person located within or outside of Iowa making a delivery sale of alternative nicotine products or vapor products within Iowa must obtain a delivery sale permit from the department. Iowa Code section 453A.47A shall govern the permit application and fee process.

a. Out-of-state retailers. An out-of-state retailer who has applied and otherwise qualifies for a delivery sale permit shall be issued the permit for the retailer’s principal place of business.

b. Permitted sales. The delivery sale permit allows a retailer with such a permit to make delivery sales of alternative nicotine products or vapor products via the Internet, telephone, or mail order into Iowa.

82.12(2) Sales and use tax permit. A retailer holding a delivery sale permit must also have an Iowa sales or use tax permit. A retailer holding a delivery sale permit must collect and remit all Iowa sales and use tax due, including any applicable local option sales tax, on all sales in Iowa.

82.12(3) Bond required. A bond of \$1,000 is required to obtain a delivery sale permit.

82.12(4) Prohibited delivery sales. All delivery sales of cigarettes and tobacco products to consumers in Iowa are prohibited.

82.12(5) Penalties. Permit suspension and revocation and other penalties imposed in Iowa Code sections 453A.22 and 453A.50 shall apply to retailers holding a delivery sale permit.

This rule is intended to implement Iowa Code sections 453A.47A, 453A.47B, and 453A.47C.